



15  
**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/372,646 08/12/99 JURGEN

M 914-1372DIV1

STEPHEN B PARKER  
ROTHWELL FIGG ERNST & KURZ PC  
SUITE 701 EAST TOWER  
555 THIRTEENTH ST NW  
WASHINGTON DC 20004

IM6270510

EXAMINER

BECKER, D

ART UNIT

PAPER NUMBER

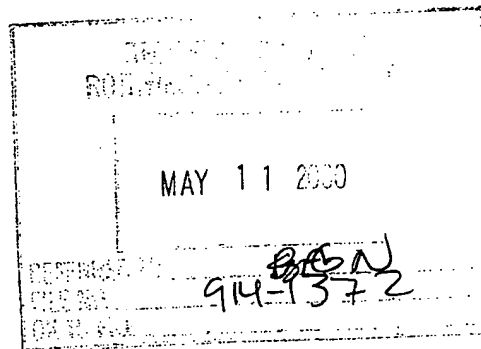
1761

DATE MAILED:

5  
05/10/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



ENTERED  
5-12-00  
Due 8-10-00

# Office Action Summary

Application No.  
09/372,646

Applicant(s)  
Jurgovan et al

Examiner  
Drew Becker

Group Art Unit  
1761



☒ Responsive to communication(s) filed on Dec 15, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-26 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 and 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1761

## DETAILED ACTION

### *Claim Objections*

1. Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is not clear how a "heat/pressure/dwell seal" differs from a "heat, pressure, and dwell seal".

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1, 5-6, and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ramsey et al [Pat. No. 6,030,122].  
Ramsey et al teach a food package comprising front and rear walls made of polymeric material (column 3, lines 18-28), a top seal (Figure 3, 116), a zipper located beneath the top seal (Figure 3, 120), a male protrusion (Figure 3, 128), a female socket (Figure 3, 140), opening the

Art Unit: 1761

package by gripping it below the zipper and pulling the zipper and top seal apart (column 6, lines 45-59), and a snack food in the package (column 1, line 55).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 7, 13-21, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al as applied to claims 1, 5-6, and 8-10 above, in view of Thompson et al [Pat. No. 5,224,779].

Ramsey et al teach a food package comprising front and rear walls made of polymeric material (column 3, lines 18-28), a top seal (Figure 3, 116), a zipper located beneath the top seal (Figure 3, 120), a male protrusion (Figure 3, 128), a female socket (Figure 3, 140), opening the package by gripping it below the zipper and pulling the zipper and top seal apart (column 6, lines 45-59), and a snack food in the package (column 1, line 55). Ramsey et al do not mention the type of seal used at the top, the force required to open the package, or the use of a laminate as the polymeric material. Thompson et al teach a food package comprising a top seal above a zipper (Figures 2-3, 21-22 and 17-18), an opening force of 1.5-6.0 lb (column 3, line 5), heat seals (column 3, line 15), adhesive seals (column 3, line 52), peel seals (column 3, line 63), and

Art Unit: 1761

the use of a heat-sealable laminate (column 2, line 64). It would have been obvious to one of ordinary skill in the art to incorporate the opening force of Thompson et al into the invention of Ramsey et al since Thompson et al teach that this is a common range of opening force for packages as evidenced by their acceptance by Hustad and Griesbach (column 3, line 4). It would have been obvious to one of ordinary skill in the art to incorporate the laminate and seals of Thompson et al into the invention of Ramsey et al since Thompson et al teach the oxygen and moisture barriers which can be achieved (column 2, line 65) and since Ramsey et al is also directed to the packaging of foodstuffs.

6. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al as applied to claims 1, 5-6, and 8-10 above, in view of Cadwallader [Pat. No. 5,542,766]. Ramsey et al teach the above mentioned concepts. Ramsey et al do not recite the use of potato chips as the snack food. Cadwallader teach a food package comprising a zipper which holds potato chips (Figure 13, 27). It would have been obvious to one of ordinary skill in the art to incorporate the potato chips of Cadwallader into the invention of Ramsey et al since Ramsey et al teach the use of snack foods (column 1, line 55) and potato chips are a type of snack food which can be packaged in a bag as shown by Cadwallader (Figure 13).

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al and Thompson et al as applied to claims 2-4, 7, 13-21, and 23-26 above, and further in view of Cadwallader.

Art Unit: 1761

Ramsey et al, Thompson et al, and Cadwallader teach the above mentioned concepts and are combined for the above mentioned reasons, in addition all the references are directed to food packages sealed by zippers.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Forman [Pat. No. 5,944,425] teach a food package having a zipper and top seal (Figure 17).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew Becker whose telephone number is (703)-305-0300. The examiner can normally be reached on Monday-Thursday from 7:00 am to 4:00 pm and every other Friday from 7:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached on (703)-308-0756. The fax number for this Group is (703)-305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Drew Becker

May 2, 2000

  
**KEITH HENDRICKS**  
**PRIMARY EXAMINER**